

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RODOLFO RODRIGUEZ,

Plaintiff,

vs.

No. CV 21-00387 JB/JHR

STATE OF NEW MEXICO,

et al.,

Defendants.

**SECOND ORDER TO CURE DEFICIENCY**

**THIS MATTER** is before the Court on the Application to Proceed in District Court Without Prepaying Fees or Costs filed by Plaintiff, Rodolfo Rodriguez (Doc. 7). On April 28, 2021, the Court entered an Order to Cure Deficiency, requiring Plaintiff to file an Application to Proceed in proper form within 30 days. (Doc. 4). Plaintiff submitted his Application to Proceed in District Court Without Prepaying Fees or Costs on May 24, 2021. (Doc. 7). The Court determines that Plaintiff's Prisoner's Motion is missing the required **certified copy of Plaintiff's inmate account statement** for the 6-month period immediately preceding this filing. See 28 U.S.C. § 1915(a)(2). Section 1915 states:

“A prisoner seeking to bring a civil action . . . shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint. . .”

28 U.S.C. § 1915(a)(2). The form Application to Proceed provided by the Court and submitted by Plaintiff states:

“I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances *during* the last six months for any institutional

account in my name. I am also submitting a similar statement for any other institution where I was incarcerated during the last six months.”

(Doc. 7 at 1) (emphasis added).

Plaintiff has not submitted the certified inmate account statement or statements as required by § 1915(a)(2). Plaintiff claims that he cannot submit the account statement because he has only been incarcerated at “Luna” for 3 months. (Doc. 7 at 1). Because Plaintiff Rodriguez is a frequent litigant in this Court, the Court is aware that Plaintiff has been incarcerated at facilities other than the Luna County Detention Center during the past six months. *See* CV 19-00111 MV/SMV, CV 20-01227 WJ/KBM, CV 20-01228 REB, CV 21-00055 WJ/JFR, and CR 18-01568 WJ. Even though he has only been at the Luna County facility for 3 months, he is still obligated to provide the account statement covering that 3-month period of time and he is also obligated to provide account statements for any other institutions where he has been incarcerated during the six-month period preceding filing of this case. 28 U.S.C. § 1915(a)(2). Failure to cure the designated deficiency within thirty (30) days from entry of this Order may result in dismissal of this action without further notice.

IT IS ORDERED that Plaintiff cure the designated deficiency by submitting the required certified copy of Plaintiff’s inmate account statement or statements for any portion of the 6-month period immediately preceding this filing within thirty (30) days from the date of this Order.

  
UNITED STATES MAGISTRATE JUDGE